THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.12228 of 2006

DATED: 06.07.2006

Between
Y.Laxminarayana. .. PETITIONER

Versus

The Commissioner, Kadapa Municipal
Corporation, Kadapa, Kadapa District. .. RESPONDENT

WRIT PETITION NO.12228 of 2006

ORDER:

Heard both the learned counsel on record.

2. This Court ordered Notice Before Admission on 20.6.2006. Sri Newton had taken notice on behalf of 1st respondent and requested time to file counter affidavit. Status quo obtaining as on the day to be maintained for a period of three weeks had been granted.

3. Sri K.Maheswara Rao, learned counsel representing the petitioner would submit that the lease period of the petitioner is up to 12.12.2010 and in the meanwhile the petitioner cannot be disturbed. The learned counsel also would submit that since the respondent initiated action of terminating the petitioner's lease by orders dated 9.6.2006 unilaterally, the said order cannot be sustained. Even otherwise, in the light of the facts and circumstances, the counsel would maintain that inasmuch as the petitioner is having subsisting lease up to 12.12.2010, and even in the event of the Commissioner, Kadapa Municipal Corporation instead of proposing to allot the same to some other person, in the light of the facts, the case of the petitioner may be considered sympathetically, and this would be just and equitable in the facts and circumstances of the case.

4. On the contrary, Sri Newton, learned Standing Counsel representing the Commissioner, Kadapa Municipal Corporation, would contend that the proceeding in question, on which reliance is placed by the petitioner, was issued when Kadapa was a Municipality and at present the same is Municipal Corporation. The learned counsel also

had taken this Court through the terms and conditions of the lease and would submit that this would not confer any right whatsoever on the petitioner and as and when the municipal authorities, without assigning any reason whatsoever, are entitled to take possession of the property in question. In the light of the same, the Writ Petition is devoid of merit and the same is liable to be dismissed. However, the learned counsel would submit that at the best the respondent-Corporation may be directed to consider the representation of the petitioner sympathetically in the facts and circumstances of the case.

5. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondent in unilaterally issuing the proceedings Rc.No.3839/F1/2000, dated 9.6.2006 by terminating the lease of the petitioner, even though the lease period is existing up to 12.12.2010 and also directing its officials to call for tenders for construction of toilets in the existing vacant site at old bus stand, Kadapa, as arbitrary, illegal and violative of Article 21 of the Constitution of India and consequently set aside the proceedings Rc.No.3839/F1/2000, dated 9.6.2006 of the respondent to the extent of directing its officials to call for tenders for construction of toilets in the existing vacant site at old bus stand, Kadapa and pass such other suitable orders.

6. It is stated that the petitioner is unemployee. It is further stated that the respondent-Municipality i.e., Kadapa Municipality permitted the petitioner to construct permanent structure and to maintain the bathrooms, latrines and urinals through their orders dated 12.12.2000. It is further stated that the petitioner entered into lease agreement with the respondent and lease period is from 13.12.2000 to 12.12.2010 at the rate of Rs.200/-. It is also stated that the respondent unilaterally, without issuing any notice, terminated the petitioner's lease through order dated 9.6.2006 and directed its officials to call for tenders for construction of toilets in the existing vacant site at old bus stand,

Kadapa.

7. In the terms and conditions of the lease granted by the erstwhile Kadapa Municipality, several conditions had been specified and it was also specified that the petitioner shall not have any right on the constructions and buildings though constructed by him with his own funds and shall have to leave the premises whenever required by the municipal authorities, without assigning any reason, therefrom, and it is also stated that he shall not proceed to any Court of Law against the municipality on any decision taken by the Municipality at any stage. This condition of prohibiting a person from pursuing his legal remedies in the Court of Law, in the considered opinion of this Court, may not be sustainable. However, it is stated that at present the property is being resumed for public purpose. The petitioner had made a representation on 15.6.2006 in this regard.

8. It may be true that Kadapa Municipality had issued the proceedings, but it is to be noted that at present the said Municipality has been converted into Kadapa Municipal Corporation.

9. In the facts and circumstances and also taking into consideration the representation made by the petitioner dated 15.6.2006, the respondent to sympathetically consider the case of the petitioner in the light of several factual details narrated in the representation dated 15.6.2006. The main ground is that it would be just and equitable if the petitioner's case is considered in the light of the fact that the very lease granted in his favour is subsisting and it is up to the year 2010 as referred to supra. The respondent while considering the representation of the petitioner also may take this aspect into consideration.

10. Accordingly, the respondent is hereby directed to dispose of the representation dated 15.6.2006 aforesaid in the light of the observations made by this Court, in accordance with law, within a period of two (02) weeks from the date of receipt of a copy of this

order. It is needless to say that till the said representation is disposed of, status quo to be maintained.

11. With the direction indicated above, the Writ Petition is disposed of. No costs.

06.07.2006

SSR